

is the extent of the substantive and procedural due process that the General Assembly has to provide before one's right to vote may be removed on account of mental incompetence?

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: I have not had occasion to research the law on it, but I would think the General Assembly could not provide for any procedure which deprived a person of a right to vote without a hearing and the normal guarantees of due process.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: I thought you had given as an illustration of one of the things that might be done a certification by two doctors of insanity.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: No, sir. I was trying to point out an inequity that could exist under the committee's recommendation. Let us take two people who both suffer in the same degree from the same mental illness. If it is decided to treat a person and confine him to a hospital through the process of an adjudication of non compos mentis that person could be disenfranchised.

On the other hand, another person with exactly the same mental illness could be treated by merely having two physicians certify that he is insane. He may be confined to a hospital, but he is not disenfranchised.

I merely wanted to point out the inequity contained in the committee draft which said that if you are found insane by this process, you may not vote. However, if you are found insane by this other process, you may still vote.

THE CHAIRMAN: Delegate Chabot, there are two other delegates desiring to ask questions and Delegate Bamberger has only two minutes. I shall have to recognize the others.

Delegate White.

DELEGATE WHITE: Delegate Bamberger, can you explain to me why you would require them specifically to establish a standard of disqualification but leave it discretionary in the area of removal.

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: It is the reverse of that, Delegate White. I am

making it discretionary for empowering the General Assembly to establish standards to take away the right to vote. But the intention is that if they do set up such a procedure, they must provide a method for removing the disqualification for allowing the person to vote.

THE CHAIRMAN: Delegate Lord.

DELEGATE LORD: Delegate Bamberger, in reference to this language, "the General Assembly in the event it establishes disqualification, then must provide for the removal of such disqualification," does this leave any discretion for the General Assembly not to provide for removal, for instance, in bribery or extortion cases?

THE CHAIRMAN: Delegate Bamberger.

DELEGATE BAMBERGER: Well, the intention is that the General Assembly should provide a method for disqualification. I suppose it is possible they could say this cannot be removed in these areas of crime, but it is the intention they should provide some way in which the matter may be reconsidered at a future date.

THE CHAIRMAN: I take it, Delegate Bamberger, that the legislature under that could provide that the disqualification could be removed only by pardon, for instance?

DELEGATE BAMBERGER: Yes. The intention is that there must at least be some way in which the matter may be reconsidered and by pardon or some other method be removed.

THE CHAIRMAN: Delegate Bamberger's time for questions has expired. The Chair recognizes Delegate Koss.

DELEGATE KOSS: Mr. Chairman, and fellow delegates: The Committee, of course, had before it the exact language or as slightly amended by Delegate Bamberger in Delegate Proposal No. 2.

After we started holding hearings on various aspects of our article, we were contacted by the Commission to Revise the Mental Health Laws as Delegate Bamberger has indicated and also by the Maryland Association for Mental Health.

They strongly urged that we adopt in our committee recommendation the language in S&E-2.

I would like to read part of their letter to you. The Commission, that refers to the Commission to Revise Mental Health Laws, has a number of professional members who